

September 26, 2005

Patrick D. Milano
Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

50-244

Subject: R.E. Ginna Nuclear Power Plant
Proposed Partial Site Release

Dear Mr. Milano:

The New York State Energy Research and Development Authority (NYSERDA), as the state entity responsible for coordination of nuclear issues in New York State, submits these comments on Ginna's May 20, 2005 partial site release application on behalf of the staff of the New York State Departments of Public Service (DPS)¹, Health (DOH) and Environmental Conservation (DEC), and the New York State Office of Homeland Security, the cognizant state agencies that have reviewed the application.

Under the existing regulations, 10 C.F.R. 50.83, the NRC is required to evaluate the effect of releasing the property to ensure that, among other things, the public is protected from radiation, and there is no reduction in the effectiveness of emergency planning or physical security. We have received the NRC's requests to Ginna for additional information, dated September 8 and 15, 2005. The New York agencies agree that the May 20 application submitted by Ginna does not contain sufficient information to make the necessary findings. Recognizing that Ginna is an active nuclear power plant that has recently been granted a 20-year life extension and is currently seeking a 16.8% power uprate, the cognizant New York agencies have the following concerns with the proposed partial site release:

Safety Analysis

The Safety Analysis for the plant is based on impacts to a member of the public located just outside the site boundary. Decreasing the distance to the site boundary could increase impacts to that location, and

¹ There is a similar petition for approval of the proposed sale pending before the New York Public Service Commission, which has concurrent jurisdiction over this transaction pursuant to New York Public Service Law §70.

therefore potentially increases risk to nearby members of the public. In the additional evaluations and analyses you have requested, Ginna will have to demonstrate that they can still meet the regulatory requirements for dose to a member of the public when taking the reduced distance to the site boundary into account. Before any part of the site is released, any referenced use of the existing site boundary in the plant's Safety Analysis will have to be identified, permissible radioactive release rates determined based on boundary location will need to be recalculated, and any accident impact predictions that are based upon the location of the nearby population will need to be reassessed.

ALARA

All licensees are required to demonstrate ALARA (As Low As Reasonably Achievable) for all activities. The additional evaluations and analyses you have requested should include a demonstration that doses to members of the public remain ALARA.

Security Issues

The security plan for the facility must account for all available paths of approach for intrusion. Part of this plan includes security staff being able to notice and react to any possible threat or intrusion before it reaches a vital area of the plant. Reducing the buffer area around the plant decreases the time it would take for any intruder to reach a vital area of the plant and therefore reduces the ability of the security staff to respond in a timely manner. The additional evaluations and analyses you have requested should include a demonstration that the partial site release will not result in any reduction in site security.

The Nuclear Regulatory Commission (NRC) should reassess its partial site release regulations in light of the events of 9/11. While the existing regulations represent the full range of issues pre-9/11, the NRC should include in its evaluation of this application the security issues known today, such as the Department of Homeland Security's (DHS) concern about protecting the nation's critical infrastructure. The Department of Homeland Security received over \$90 million in grant funding, nearly \$6 million of that for New York State, to protect and secure areas surrounding critical infrastructure and key resource sites, including nuclear power plants. Within the DHS Integrated Protective Measures Plan, the Buffer Zone Protection Program (BZPP) provides for the purchase of equipment which would extend the zone of protection beyond the gates of these critical facilities. The BZPP program guidance specifically recognizes that,

"areas surrounding the facility offer ample room for potential terrorists to observe the physical layout and gather critical information about physical structure, typical vehicle and pedestrian traffic patterns to and from the location, times that may represent periods of vulnerability to attack, and other such relevant facility security information."²

Therefore, the NRC's review should include an analysis of the consequences of approving the sale of the land on post-9/11 homeland security concerns.

We also urge the NRC to take into consideration the proposed construction and use of a high-powered rifle range on site. This proposed use may impact the safety of the property proposed for release.

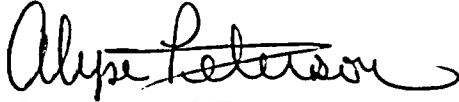
In addition, Ginna will run out of room in its spent fuel pool and require dry storage by 2010. Therefore, the NRC's review should include not only the ability of Constellation to safely protect the spent fuel

² U.S. Department of Homeland Security, Fiscal Year 2005 Buffer Zone Protection Program, Program Guidelines and Application Kit.

from potential security breaches, but also whether there will be sufficient protected land to store the spent fuel until a federal high-level waste repository is available.

If you have any questions, you may contact me at (518) 862-1090 extension 3274.

Sincerely,

A handwritten signature in cursive script that reads "Alyse Peterson". The signature is fluid and extends to the right with a long, sweeping tail.

Alyse Peterson, P.E.
Senior Project Manager

cc: R. Bores, NRC

NYSERDA

**New York State Energy Research
and Development Authority**

17 Columbia Circle
Albany, New York 12203-6399



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Mr. Patrick D. Milano
Senior Project Manager, Section 1 Project Directorate I
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Washington, DC 20555

